**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**
(*Special Original Jurisdiction*)

WEDNESDAY, THE NINETEENTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN

P R E S E N T

**THE HON'BLE SRI JUSTICE P.S. NARAYANA**

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WRIT PETITION No. 25911 of 2007

**Between:**

**BHIMAVARAPU GRIDHAR KUMAR REDY … Petitioner**

**Versus**

**The Union Govt. of India & Ors. … Respondents**

**Counsel for the Petitioner: SRI T. SRIDHAR (7936)**

**Counsel for the Respondents: SRI S S V A R M A**

**THE HON'BLE SRI JUSTICE P.S. NARAYANA**

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WRIT PETITION No. 25911 of 2007

O R D E R :

This Court issued Rule Nisi on 06-12-2007 and Sri S.S.Varma had taken notice on behalf of respondents and requested time to file counter-affidavit. In WPMP.No.33785 of 2007 interim direction was granted until further orders.

2. It is stated by Sri S.S.Varma that only on mere apprehension, the present writ petition had been filed.

3. The writ petition is filed for a writ of mandamus, declaring the action of the respondents in interfering with the land of the petitioner herein i.e., Acs:6-15 cents of land situated in RS.No.40 of Konthanapadu village of Kankipadu Mandal of Krishna district as illegal, arbitrary, void, unconstitutional, against the principles of natural justice and consequently to direct the respondents not to interfere with the said land of the petitioner, in the interest of justice and to pass such other suitable orders as this Court may deems fit and proper in the circumstances of the case.

4. It is stated that the petitioner and his family live by cultivation of agricultural lands. For the sake of relevance of this case, the petitioner owns Ac:6-15 cents of land situated in RS.No.40 of Konthanapadu village of Kankipadu Mandal of Krishna district. The said land by its fortune is situated adjoining West to NH-5 Highway

road leading to Machilipatnam from Vijayawada near 16/4 KM stone from Vijayawada. A rough sketch drawn to scale depicting the said topography is filed herewith for brevity and better comprehension. The said existing road is two lane road and it is later learnt that it was made a proposed four lane road. Pertinently there was no notification to acquire the petitioner's land for the said purpose either under the National Highways Act, 1956 or under the Land Acquisition Act, 1894.

5. Further it is stated that to the petitioner's surprise, the petitioner learnt that in the month of August 2007, the staff of the respondents came and illegally erected some boundaries stones in his land, without following the procedure prescribed under the law. The petitioner's anxious inquiry then revealed that they were fixed on behalf of the National Highways Authority of India. The said survey coupled with fixation and erection of boundary stones as mentioned above is unjust, arbitrary, illegal, ultravires, unconstitutional and without any power or authority or jurisdiction. Neither the petitioner nor any one on his behalf were given any notice or information at any time, regarding the aforesaid survey or identification or erection of stones mentioned above. To more understand the said acts of the respondents, which is learnt to be on the pretext of making the

existing two lane road into a four lane road, the petitioner was constrained to engage an expert in survey. Then it became divulged that the above said boundary points fixed are with malafide motive and specially designed to help big process, the petitioner was made a scapegoat at their slaughter's home. The aforesaid proposed four lane road was unwarrantedly given a bend at the petitioner's land and consequently it had intruded into his land more deeper and it had resultantly would burden the Government with huge excess sum. In stead where there are absolutely no hurdles to make the said road more straight, it would save money, time and it would create more safer passage to the traffic and public. To the south of the petitioner's land adjoining, there is a road that runs from villages that merges into the aforesaid main road. It is a standard guideline that where there are such cross-roads, the road should be maintained more straight for public and vehicular safety. Giving a complete go-bye to the said guidelines and standards, for extraneous consideration an unwarranted bend was intentionally designed at his land.

6. It is stated that under section 3-A of the National Highways Act, 1956 if the Central Government is satisfied that for a public purpose any land is required for operation of a National Highway etc., it may by notification in the official gazette declare its intention to acquire

land and in every notification they shall give a brief description of the land and the said notification shall be published in two local news papers. After issuance of the said notification only, any person authorized by the Central Government can make inspection, survey, measurement, valuation or enquiry etc., and they can set out boundaries by placing marks and cutting trenches etc., under section 3-B. From the date of the publication of the said notification any person interested can put his objections with regard to the use of the land etc., to the competent authority in writing under section 3-C. On receipt of the said objections the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and may after hearing all such objections and after making further inquiry, if any, the competent authority shall pass orders either accepting the objections raised or disallow. Where no objections have been made to the competent authority within the period specified i.e., 21 days, the competent authority shall submit a report to the Central Government and on receipt of such report only the Central Government by notification in the official gazette that the said land shall be acquired for the purpose or purposes mentioned in Section 3-A of the Act. Without following the above said procedure, no authority or person, has got any power or jurisdiction to interfere

with the land of the petitioner or to make any inspection or survey or measurement or to set out boundaries etc.

7. It is further stated that with regard to the petitioner's land, the staff of the respondents have inspected and conducted survey and fixed boundaries illegally without any notice or prior intimation to the petitioner and the petitioner came to know about the said illegal action of the respondents only later. The said action of the respondents is illegal, arbitrary, void, unconstitutional, against the principles of natural justice and without any power or authority or jurisdiction. Having learnt about the same, immediately the petitioner approached the third respondent but as the petitioner's agony went un-responded, on advice, the petitioner submitted representations dated 06-9-2007 to the respondents 1 and 2 herein on 10-9-2007 personally through his relative, Sri M.Ajay Babu and requested them to initiate enquiry and to instruct their staff not to interfere with their peaceful possession and enjoyment of the petitioner's land. The said Ajay Babu at the petitioner's request had even contacted the Member of Parliament and had submitted a copy of the above said representation and in turn the said Member of Parliament had forwarded his reference to the first respondent on 10-9-2007. It is stated that despite repeated approach in-person, the respondents

have not taken any action and local authorities are preventing the petitioner from cultivation of his land only at the instance of the respondents. It is further stated that the petitioner's above said representation is unjustly ignored and no steps were taken on the said representation.

8. Further it is stated that under Article 300-A of Indian Constitution, no person shall be deprived of his property without following the procedure prescribed under the statute. No person or authority has got any power or authority without following the due procedure prescribed under the statute and because of the above said illegal action of the respondents, the petitioner's rights conferred under Article 300-A of Indian Constitution are being affected.

9. In such circumstances, the writ petitioner approached this court praying for the appropriate reliefs.

10. It is stated by Sri S.S. Varma, the learned standing counsel representing the respondents that at present no notification as such had been issued and only on mere apprehension the writ petitioner approached this court. The same is hereby recorded.

11. In view of the facts and circumstances, the writ petition is disposed of directing the respondents not to disturb the possession of the writ petitioner unless and until due process of law is followed.

12. With the above direction, the writ petition is disposed of. No costs.

JUSTICE P . S . NARAYANA .

19/12/2007

NB:

Furnish CC of the order today.

B/O.ISL